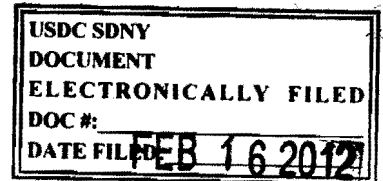


UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK



-----X
MICROSOFT CORPORATION,

Plaintiff,

-v-

DATATERN, INC.,

Defendant.

11 Civ. 2365 (KBF)
11 Civ. 2648 (KBF)

ORDER

-----X
SAP AG AND SAP AMERICA, INC.,

Plaintiff,

-v-

DATATERN, INC.

Defendant.

-----X
KATHERINE B. FORREST, District Judge:

Having reviewed plaintiff's Motion for an Order Regarding the Non-Assertion of Claims by Datatern, Inc., the parties' letter submissions related to the non-assertion of claims by Datatern, Inc., and the transcript of the January 31, 2012, conference before Judge Holwell, this Court notes its concern with defendant's unwillingness to agree to the stipulation as discussed. However, unless defendant is willing to reconsider their decision, this Court ORDERS as follows:

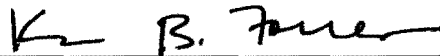
1. If defendant will enter into a binding contractual side letter no later than February 28, 2012, this Court will not otherwise order such an agreement.

2. If defendant refuses to enter into such a side letter, this Court has various tools it can utilize to limit future actions.
3. Plaintiffs' motion is DENIED with leave to refile.

The Clerk of the Court is directed to terminate the motion at Docket No. 62.

SO ORDERED:

Dated: New York, New York
February 16, 2012

A handwritten signature in black ink, appearing to read "K. B. Forrest", is written over a horizontal line.

KATHERINE B. FORREST
United States District Judge